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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/023,148	12/13/2001	David Michael Matela	16258	3181

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EXAMINER

SALVATORE, LYNDIA

ART UNIT	PAPER NUMBER
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1771

DATE MAILED: 02/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/023,148

Applicant(s)

MATELA ET AL. 

Examiner

Lynda M Salvatore

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 21-40 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected:
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Response to Amendment

1. Applicant's amendment and accompanying marks filed 11/13/03 have been fully considered and entered. Claim 7 has been amended as requested. Applicant's argument regarding claim 18 has been found sufficient to overcome the 35 U.S.C. 112, second paragraph rejection as set forth in section 2 of the last Office Action. Thus, this rejection is hereby withdrawn.

Applicant's arguments regarding claims 1-6, 12-18, and 20 rejected under 35 U.S.C. 102(b) as being anticipated by Jackson et al., US 5,952,251 as set forth in section 5 of the last office Action have been found persuasive. Specifically, the Examiner concedes that the prior art of Jackson fails to teach a coform non-woven web comprising multi-component filaments wherein the secondary material is uniformly dispersed within the multi-component filaments in the z-direction of the coform non-woven web. Jackson et al., does teach a coform non-woven comprising primary filaments made from a blend of polymers, but fails to teach a multi-component fiber as defined by the Applicant. In addition, Jackson et al., is silent with regard to the z-direction limitation. Thus, since Jackson et al., fails to teach each and every claim limitation, it is the position of the Examiner that Jackson et al., does not qualify as prior art under 35 U.S.C. 102(b) and as such said rejection is hereby withdrawn. With regard to the rejections set forth in sections 6-9 of the last Office Action, Applicant's arguments have been fully considered, however, upon further consideration a new ground of rejection is set forth herein below.

Election/Restrictions

2. Applicant's election with traverse of claims 1-20 filed 11/13/03 is acknowledged. The traversal is on the ground(s) that substantially continuous filaments cannot be air-laid. This is found persuasive, however, the requirement for restriction stands on the basis that the non-woven web may be made using a melt-blown process. Further, the search for the method limitations recited in claims 21-40 would not be coextensive with the search for the article limitations recited in claims 1-20.

The requirement is still deemed proper and is therefore made FINAL.

Claims 21-40 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected method for producing a conform non-woven web having no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement filed on 11/13/03.

Claim Rejections - 35 USC § 102

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. Claims 1,2,6-9,14, and 20 stand rejected under 35 U.S.C. 102(b) as being anticipated by Neely et al., PCT WO 00/66824. Additionally, claim 18 is also rejected under 35 U.S.C. 102(b) as being anticipated by Neely et al., PCT WO 00/66824.

Applicant asserts that *orientation* of fiber in the z-direction is different that fiber *uniformity* in the z-direction and that Neely et al., never addresses the uniformity of the second material in the z-direction. These arguments are not found persuasive on the grounds that Neely

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et al., defines coform as a process in which secondary materials such as staple fibers, pulp, or superabsorbent particles are added to the meltblown diehead as the web is forming (Page 8, 10-15). Thus, it is the position of the Examiner that said process produces a uniform homogenous blend of continuous fibers and secondary materials, which are subsequently oriented in the z-direction to produce a coform non-woven web. To reiterate, the published PCT application to Neely et al., teaches a non-woven comprising continuous fibers oriented in a z-direction (Abstract). Neely et al., teaches enhancing the absorbency of the non-woven web with an absorbent such as super-absorbent particles, pulp, or fibers as a coform (Page 8,1-3). The continuous fibers are bicomponent fibers made from various polyolefins, polycarbonates, polystyrenes, thermoplastic elastomers, fluoropolymers, and vinyl polymers (Page 7,6-31).

With regard to claim 18, Applicant directed the Examiner's attention to figures 4 and 5 in the specification and argues that the instantly claimed coform web has a more vertical arrangement than conventional horizontal webs. In view of Applicant's figure 5, it is the position of the Examiner that Neely et al., depicts a very similar if not exact vertical arrangement in figures 5-7. Thus, claim 18 is rejected as being anticipated by Neely et al.

Claim Rejections - 35 USC § 102/103

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
6. Claim 12 is rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Neely et al., PCT WO 00/66824 as applied to claim 1 above.

With regard to claim 12, Neely et al., does not explicitly state the wicking distance of the instantly claimed invention, however it is reasonable to presume said limitation is inherent to the

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coform web of Neely. Support for said argument is found in the use of like materials (i.e., continuous fibers intermixed with super-absorbents) and the use of like process such as producing a non-woven comprising continuous fibers oriented in a z-direction, which would result in the claimed wicking distance property. The burden is upon the Applicant to evidence the contrary. *In re Fitzgerald* 205 USPQ 594

In addition, the presently claimed wicking distance property would obviously have been present once the Neely et al., produce is provided. *In re Best*, 195 USPQ 433

Claim Rejections - 35 USC § 103

7. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

8. Claims 1-9 and 13-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Neely et al., PCT WO 00/66824 in view of Jackson et al., US 5,952,251.

The published PCT application to Neely et al., teaches a non-woven comprising continuous fibers oriented in a z-direction (Abstract). Neely et al., teaches enhancing the absorbency of the non-woven web with an absorbent such as super-absorbent particles, pulp, or fibers as a coform (Page 8,1-3). The continuous fibers are bicomponent fibers made from various polyolefins, polycarbonates, polystyrenes, thermoplastic elastomers, fluoropolymers, and vinyl polymers (Page 7,6-31).

With regard to the specific polymer arrangement it is commonly known in the art that bi-component fibers may generally take the form of sheath/core, side-by-side, island/sea, pie shaped and other heterogeneous configurations thereof. Thus, the recited A/B/A configuration would be encompassed under the general term of bi-component.

With regard to the limitation of substantially uniformly dispersing the secondary material in the thermoplastic filaments in the z-direction, see the above arguments regarding the Neely et al., coform process. As further evidence that the coform process can provide a homogenous blend of primary continuous fibers and secondary material, Applicant is invited to read the Jackson et al., patent (US 5,952,251) beginning in column 13, line 65 through column 14, line 5, which specifically teaches how to provide a uniform structure.

With regard to claim 18 Neely et al., depicts a vertical arrangement in figures 5-7.

Neely et al., fails to teach the amount of continuous multi-component fibers, particles, pulp or staple fibers, however, the patent issued to Jackson et al., defines a coform web as continuous melt-spun reinforcing fibers intermixed with shorter absorbent fibers such as pulp and super-absorbents (Column 8, 10-15). The continuous fibers may be formed from various polymers such as polyesters, polyethylene terephthalate, polyamides, and a blend of at least two these materials (Column 9, 28-35). The staple fibers may be formed from the same polymers as listed above as well as nylons and polyurethanes (Column 9, 59-68). The absorbent material may consist of wood pulp fibers and super-absorbent materials in the form of particles, fibers or flakes (Column 10, 41-45, 56-67). The amount of continuous fibers ranges from 30% to 35%, the staple fiber concentration ranges from 5% to 8%, and the amount of absorbent material ranges from 40% to 60% (Claims 18 and 19). Jackson et al., teaches in example 1 a non-woven comprising 50% continuous fibers and 50% of staple reinforcing polymer/pulp fibers wherein 80% is pulp and 20% is polymer (Column 18, 55-65). Jackson et al., teaches that coform non-woven webs are well suited for personal absorbent care articles (Column 11, 20-30).

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Therefore motivated by the desire to provide personal care article having excellent absorbency properties, it would have been obvious to one having ordinary skill in the art to provide the coform web of Neely et al., with the ratio amounts of continuous multi-component fibers and absorbent materials taught by Jackson et al.

Therefore, motivated to achieve a balance of desirable properties it would have been obvious to one having ordinary skill in the art at the time the invention was made to use bi-component fibers as taught by Neely et al., in the fibrous web of Jackson et al.

9. Claims 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Neely et al., PCT WO 00/66824 as applied to claim 1 above, and further in view of Fontenot et al., PCT WO 00/34567.

Neely et al., fails to teach the instantly claimed density range, however the published PCT application to Fontenot et al., teaches an absorbent airlaid composite comprising bicomponent and pulp fibers (Abstract). Fontenot et al., teaches a density of about .02 to .05 g/cc (Page 10,19-21).

Therefore, motivated to provide a thin dense absorbent structure it would have been obvious to one having ordinary skill in the art at the time the invention was made to form the coform non-woven web of Neely et al., having the density range taught by Fontenot et al.

Conclusion

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10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lynda M Salvatore whose telephone number is 571-272-1482.


The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 571-272-1482. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-0994.

January 30, 2004

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TERREL MORRIS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700